

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**JANET KELLEY,**

**Plaintiff,**

**v.**

**NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,**

**Defendant.**

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**Case No. CIV-18-695-G**

**ORDER**

On February 1, 2019, the Court entered an Order and a Judgment reversing the decision of the Social Security Administration and remanding this case for further proceedings. *See* Doc. Nos. 13, 14. Now before the Court is Plaintiff Janet Kelley's Motion for Attorney's Fees under the Equal Access to Justice Act, 28 U.S.C. §§ 2412 et seq. *See* Pl.'s Mot. (Doc. No. 15). Plaintiff has notified the Court that Defendant has no objection to Plaintiff's request. *See id.* at 1-2.

Having considered Plaintiff's unopposed request and the relevant record, the Court finds that: "(1) [P]laintiff is a 'prevailing party'; (2) the position of the United States was not 'substantially justified'; and (3) there are no special circumstances that make an award of fees unjust" in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). Accordingly, the Court GRANTS Plaintiff's request and awards fees in the amount of \$4818.00, with said amount to be paid directly to Plaintiff and sent in care of Miles L. Mitzner, P.O. Box 5700, Edmond, Oklahoma, 73083. If

attorney's fees are also awarded under 42 U.S.C. § 406(b), Plaintiff's counsel shall refund the smaller award to Plaintiff in accordance with *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED THIS 6th day of March, 2019.

  
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CHARLES B. GOODWIN  
United States District Judge